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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,468	12/10/2001	Kenneth J. Greves	GREV / 03	7173
26875	7590	09/27/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			ALLEN, DENISE S	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/016,468

Applicant(s)

GREVES, KENNETH J.

Examiner

Denise S Allen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-22 and 24-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-22 and 24-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

In light of the Applicant's amendment to claims 54 – 57 and 59 on July 22, 2004, the objections to claims 54 – 57 and 59 in the Office Action on May 6, 2004 have been withdrawn.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 21, 22, and 42 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

Claim 24 is objected to because of the following informalities: claim 24 is dependent on a cancelled claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 6 – 8, 11, 12, 17, 19, 20, 22, 24, 25, 27 – 30, 33, 38, 40 – 45, 47 – 49, 52, 53, 58, 60, and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Taglieri (US 5,677,790).

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Regarding claims 1, 3, 4, 22, 24, 25, 28, and 42 – 45, Taglieri teaches an apparatus (Figures 1 – 5), comprising a pliable structure (reference 1) having first and second opposite ends (top and bottom), first and second opposite sides (the side visible in the Figures and the side not visible) and being adapted to be inserted into a pocket of clothing worn by a user (from Figures 9A, 9B, 10A, and 10B it can be seen that the apparatus is a size and shape that will fit into a pocket of clothing), wherein said first and second sides are reflective (claim 4 lines 2 – 3), said structure being further adapted to reflect light no matter which side or which end protrudes from the pocket (because the entire surface of both sides are reflective, any part of the apparatus that protrudes from a pocket will reflect light).

Regarding claims 6, 29, and 47, Taglieri teaches the structure is substantially oblong (Figure 1).

Regarding claims 7 and 48, Taglieri teaches the structure is substantially planar (Figures 8A – 8D).

Regarding claims 8, 30, and 49, Taglieri teaches the structure is substantially rectangular (Figure 1).

Regarding claims 11, 27, and 52, Taglieri teaches the structure is manufactured from reflective material (column 3 line 61).

Regarding claims 12, 33, and 53, Taglieri teaches the reflective material is attached to said sides (column 3 line 61 and claim 4 lines 2 – 3).

Regarding claims 17, 38, and 58, Taglieri teaches the structure includes at least one aperture (reference 3).

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Regarding claims 19, 20, 40, 41, 60, and 61, Taglieri teaches the structure includes radiused corners (reference 1 has radiused corners).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 9, 10, 13, 26, 31, 32, 46, 50, 51, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taglieri.

Regarding claims 5, 9, 10, 26, 31, 32, 46, 50, and 51, Taglieri discloses the claimed invention as described above except for the structure being adapted to protrude out of the pocket when seated in the pocket of the user. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the structure to protrude out of the pocket when seated in the pocket of the user, since such a modification would involve only a mere change in size of a component. Scaling up or down of an element which merely requires a change in size is generally considered as being within the ordinary skill in the art. One would have been motivated to scale the size of the structure so that it protrudes out of the pocket when seated in the pocket of the user in order to facilitate the user remembering that the structure is in the pocket by being able to see the structure protruding from the pocket.

Regarding claims 13, and 54, Taglieri discloses the claimed invention except for the reflective material is reflective tape. It would have been obvious to one having ordinary skill in

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the art at the time the invention was made to use reflective tape as the reflective material, since it has been held to be within the ordinary skill of workers in the art to select a known material on the basis of its suitability for the intended use. One would have been motivated to use reflective tape for the reflective material for the purpose of minimizing the cost of manufacturing (column 4 lines 3 – 6).

Claims 14, 15, 34, 35, 37, 55, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taglieri in view of Murray, Jr. (US 3,335,693).

Regarding claims 14, 34, 37, and 55, Taglieri teaches the apparatus as described above. Taglieri does not teach the structure includes at least one recessed area in said sides to accommodate said reflective material.

Murray, Jr. teaches an apparatus with at least one recessed area (created by reference 7 as shown in Figure 5) in a side to accommodate a reflective material (references 1 – 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the recessed area of Murray, Jr. in the apparatus of Taglieri in order to protect the edges of the reflective material.

Regarding claims 15, 35, and 56, Taglieri in view of Murray, Jr. discloses the claimed invention except for the dimensions of the recessed area. It would have been obvious to one of ordinary skill in the art at the time the invention was made to size the recessed area to cover the side of the structure, since such a modification would involve only a mere change in size of a component. Scaling up or down of an element which merely requires a change in size is generally considered as being within the ordinary skill in the art. One would have been motivated

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to scale the size of the recessed area to be 3.6 inches by 2.1 inches by 0.2 inches in order to maximize the reflective area.

Claims 16, 36, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taglieri in view of Murray, Jr. and further in view of Arbuckle et al (US 2,004,181).

Taglieri in view of Murray, Jr. teaches an apparatus as described above. Taglieri and Murray, Jr. does not teach the structure includes three recessed areas in each of the sides.

Arbuckle et al teaches a structure with four recessed areas for reflective material in a side. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the multiple recessed areas of Arbuckle et al in the apparatus of Taglieri in view of Murray, Jr. in order to display user identification information.

Claims 18, 21, 39, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taglieri in view of Murray, Jr. and Arbuckle et al and further in view of Harrison.

Regarding claims 18, 21, 39, and 59, Taglieri in view of Murray, Jr. and Arbuckle et al teaches an apparatus as described above. Taglieri, Murray, Jr., and Arbuckle et al do not teach the structure includes a pair of apertures between adjacent recessed areas.

Harrison teaches a structure (Figure 10) with multiple reflective areas (i.e. references 27 and 28) with pairs of apertures (reference 29) between adjacent reflective areas (i.e. there are a pair of reference 29 between references 27 and 28). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the placement of pairs of apertures of Harrison in the apparatus of Taglieri in view of Murray, Jr. and Arbuckle et al in order to provide multiple attachment points for the apparatus.

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Regarding claim 21, Taglieri teaches a structure that is adapted to removably attach to clothing (Figures 9A, 9B, 10A, and 10B).

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise S Allen whose telephone number is (571) 272-2305. The examiner can normally be reached on Monday - Friday, 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



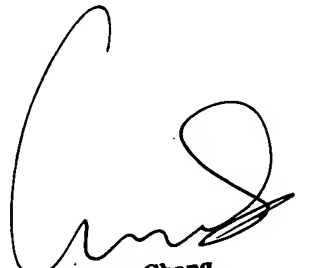
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Examiner  
Art Unit 2872



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